IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 22ND FEBRUARY 2007 / 3RD PHALGUNA 1928

Tr.P(Crl.).No. 33 of 2007()

CMP.5180/2006 of J.M.F.C.-II, KOCHI

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PETITIONER:

K.SREEDHARA PANICKER,\
AGED 74 YEARS,
S/O. VELAYUDHAN,
THOPPIL SREE BHAVANAM,
HARIPAD,
ALAPPUZHA (DIST).

BY ADV. SRI.G.ANANTHANARAYANAN

RESPONDENTS:

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1. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

2. N.M. KUMAR,
JAYA BHAVANAM,
AKAMKUDI, HARIPAD,
ALAPPUZHA (DIST).

BY P.P. SRI.S.U. NAZAR.

THIS TRANSFER PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON 22/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Tr.P.(Cri) NO. 33 OF 2007

Dated this the 22nd day of February, 2007

ORDER

The petitioner is the accused in a prosecution under Sec.138 of the N.I. Act. Cognizance has not been taken. The matter is pending before the learned Magistrate. There is an application to condone the delay in filing the complaint also.

2. According to the petitioner, the learned Judicial Magistrate of the First Class-II, Kochi, has no jurisdictional competence to deal with the matter inasmuch as the allegations, if accepted in toto, can give rise to a cause of action only before the Judicial Magistrate of the First Class-II, Haripad, and the learned Magistrate of the First Class-II, Kochi, has no territorial jurisdiction in the matter.

3. According to the petitioner, he had raised the contention in M.P.No.1153/07. He had requested that inasmuch as the learned Judicial Magistrate of the First Class-II, Kochi, lacks territorial jurisdiction, the complaint may be returned to the petitioner for presentation before the

appropriate court. That petition, a copy of which is produced as Annexure-A3, has not been considered by the learned Magistrate so far. The learned Magistrate is proceeding to assume the jurisdiction without considering that question.

4. I am satisfied, in these circumstances, that this transfer petition need not be taken up for consideration. The interests of justice will be best served by directing the learned Magistrate of the First Class-II, Kochi, to consider and dispose of M.P.No.1153/07 on merits expeditiously before proceeding to consider the complaint filed and the application for condonation of delay in filing the complaint. Orders shall be passed on Annexure-A3 application by the learned Magistrate expeditiously at any rate within a period of one month from 9/3/2007 the date to which the case now stands posted before the learned Magistrate.

Sd/-

(R. BASANT, JUDGE)

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//true copy// P.S. To Judge